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OFFICE OF PETITIONS

CHRISTIE, PARKER & HALE, LLP  
PO BOX 7068  
PASADENA, CA 91109-7068

CHRISTIE, PARKER & HALE, LLP

In re Application of :  
Imada, et al. :  
Application No. 10/769,488 :  
Filed: January 29, 2004 :  
Attorney Docket No. 5187/DBP/A400 :

DECISION GRANTING PETITION

This is a decision on the renewed petition filed May 14, 2007, under 37 CFR 1.10(d) requesting that the above-cited application be accorded a filing date of January 30, 2004. This petition will also be treated as petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.10(d).

The petition under 37 CFR 1.183 is **granted**.

The petition under 37 CFR 1.10(d) is **granted**.

**TREATMENT UNDER 37 CFR 1.183**

CASE # 51879 ACTION                       
REMINDER                      DUE DATE                       
DEADLINE                     

A petition under 37 CFR 1.10(d) was first filed on March 5, 2007, and dismissed by a decision mailed April 20, 2007. The petition was dismissed because petitioner did not explain why the petition was filed more than three-years after the alleged erroneous filing date was accorded. The petition was also dismissed because petitioner did not provide evidence from the United States Postal Service or that came into being after deposit and within one day of the date the application was mailed that would corroborate petitioner's claim that the application was deposited on January 30, 2004. The renewed petition was not persuasive as to the aforementioned. Notwithstanding, in the interest of justice, the relevant requirements of 37 CFR 1.10(d) will be waived pursuant to 37 CFR 1.183, so that the petition under 37 CFR 1.10(d) granted. Deposit account 03-1728 will be charged \$400.00 for the petition fee.

**TREATMENT UNDER 37 CFR 1.10(d)**

Petitioner alleges that the application was deposited with the United States Postal Service, Express Mail Service on January 30, 2004, but that the United Postal Service entered the "date-in" incorrectly as January 29, 2004. It is noted that the requirements of 37 CFR 1.10(d)(1) and (3) are being waived pursuant to 37 CFR 1.183. The evidence is, otherwise, convincing that the application papers were deposited with the United States Postal Service Express Mail Service on January 30, 2004.

In view of the above, the petition is **granted**. The new filing date for the above-cited application is January 30, 2004

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 20, 2004, and for issuance of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-32223.

  
Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions